

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

FREDERICK UGWU and AMER MIR,

Criminal Action No.: 08-561 (JLL)

CORRECTED ORDER

This matter comes before the Court on the *in limine* motions of the United States and Defendant Frederick Ugwu. The Court held a hearing on the motions on October 19, 2009. The Court has considered the parties' submissions and the arguments made at the hearing, and for the reasons set forth on the record at the hearing,

It is on this 21st day of October, 2009,

ORDERED that the Government's motion *in limine* (CM/ECF No. 58-1) is GRANTED in part and DENIED in part as follows: (1) The request to admit evidence of asset transfers from Defendant Mir to his daughter is GRANTED; (2) The request to admit Mr. Ugwu's tax return reporting of the cost basis related to the sale of properties is DENIED. But, testimony from the tax preparer or admission of the tax returns will be permitted for the limited purpose of showing Mr. Ugwu's control of the companies at issue—253 East 33rd Street LLC and UG Properties Inc.; (3) The request to preclude an advice of counsel defense unless a sufficient basis is established at a 104 hearing is DENIED as premature; (4) The request to admit evidence of other allegedly fraudulent real estate transactions not included in the indictment is GRANTED; and (5) The

request to admit evidence of real estate transactions not alleged to be fraudulent is also GRANTED; and it is further

ORDERED that Mr. Ugwu's motions *in limine* (CM/ECF Nos. 58-2 and 62) are GRANTED in part and DENIED in part as follows: (1) The request to exclude the expert testimony of Robert Simon is DENIED. Mr. Simon will be permitted to testify within the scope outlined by the Government on page 3-4 of its September 29, 2009 letter opposition; (2) The request to exclude the testimony of Gwen O'Connor is DENIED. This denial is without prejudice to Mr. Ugwu reasserting his objection to any opinion testimony on a case by case basis; and (3) The request to exclude the testimony of IRS Special Agent Karen Remington is GRANTED.

/s/ Jose L. Linares

Jose L. Linares
United States District Judge